

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: CENTURYLINK RESIDENTIAL      MDL No. 17-2795 (MJD/KMM)  
CUSTOMER BILLING DISPUTES  
LITIGATION

This Document Relates to  
ALL ACTIONS

**PRETRIAL ORDER NO. 1**

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The Judicial Panel on Multidistrict Litigation (“JPML”) has issued an order pursuant to [28 U.S.C. § 1407](#) transferring actions in the above-captioned matter to this Court for coordinated or consolidated pretrial proceedings. Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY**

**ORDERED:**

**A.     Status Conference**

The Court will hold an initial status conference in this matter on November 30, 2017, at 10:30 a.m. in Courtroom 13E of the United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

**B.     Applicability of this Order**

This order shall govern the practice and procedure in those actions that were transferred to this Court by the JPML in its Orders of October 5, 2017 and

October 16, 2017, as well as all related actions originally filed, transferred to, or removed to this Court. This Order shall also apply to any “tag-along actions” later filed in, removed to, or transferred to this Court, absent further order of this Court. The Court will refer to all such actions as the “Cases.”

**C. Consolidation**

The Cases are consolidated for pretrial purposes only. Any tag-along actions later filed in, removed to, or transferred to this Court will automatically be consolidated with this action without the necessity of future motions or orders. This consolidation does not constitute a determination that the Cases should be consolidated for trial, nor does it have the effect of making any person or entity a party to any action in which that party has not been named, served, or added in accordance with the Federal Rules of Civil Procedure.

**D. List of Affiliated Companies and Counsel**

To assist the Court in identifying any issues or matters of recusal or disqualification, counsel will submit to the Court, within 15 days of receipt of this Order, a list of all companies affiliated with the parties and all counsel associated in the Cases.

**E. Service**

Before the initial status conference, service of all papers relating to the initial status conference shall be made on counsel of record appearing in the Cases. The docket is the official record of the service list. This paragraph does not pertain to or alter the requirements for service of process of any summons and/or complaint.

**F. Master Docket File**

The Clerk of Court will maintain a master docket case under the style “In Re: CenturyLink Residential Customer Billing Disputes Litigation” and the identification “MDL No. 17-2795.” All papers filed in these Cases shall bear the identification “MDL No. 17-2795.” When a pleading is intended to be applicable to all Cases, this shall be indicated by the words: “This Document Relates to ALL ACTIONS” and shall be filed electronically in 17-md-2795. When a pleading is intended to apply to fewer than all cases, this Court’s civil action number for each individual case to which the document(s) relate(s) shall appear immediately after the words: “This Document Relates to . . .” and shall be filed electronically in each member case to which the document(s) applied. The following is a sample of the pleading style:

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**G. Previous Orders**

Any orders, including protective orders, previously entered by this Court or any transferor court, shall remain in full effect unless modified by this Court, with the exception of any transferor court orders imposing pleadings or discovery deadlines, which are hereby vacated.

**H. Filing**

Any pleading or paper filed in any of the Cases shall be filed electronically with the Clerk of this Court and not with the transferor district court.

**I. Docketing**

When an action that properly belongs as a part of In Re: CenturyLink Residential Customer Billing Disputes Litigation is filed in the District of Minnesota or transferred here from another court, the Clerk of this Court shall:

- a. File a copy of this Order in the separate file for such action, and
- b. Make an appropriate entry on the master docket sheet.

**J. Admission of Counsel and Appearances**

Counsel who appeared in a transferor court prior to transfer by the JPML need not enter an additional appearance before this Court. Attorneys admitted

to practice and in good standing in any United States District Court are admitted pro hac vice in this litigation, and the requirements of Local Rule 83.5(d) are waived. Association of local co-counsel is not required. Counsel in a newly filed or transferred action shall complete (1) the MDL Registration Form, and (2) the Notice of Appearance form, available at [http://www.mnd.uscourts.gov/FORMS/court\\_forms.shtml#attorneyforms](http://www.mnd.uscourts.gov/FORMS/court_forms.shtml#attorneyforms). After completing the MDL Registration Form, counsel will receive a CM/ECF log-in enabling them to electronically file the Notice after applying for Multi-District Admission through his or her individual account.

Counsel who are listed on the docket and are no longer affiliated with this action must promptly file a notice of withdrawal and substitution of counsel or motion to withdraw as counsel of record without substitution, available at [http://www.mnd.uscourts.gov/FORMS/court\\_forms.shtml#attorneyforms](http://www.mnd.uscourts.gov/FORMS/court_forms.shtml#attorneyforms).

Counsel appearing in this action are expected to familiarize themselves with all prior Court orders and proceedings, as well as the Local Rules of the District of Minnesota.

#### **K. Preservation of Evidence**

All parties shall take reasonable steps to preserve documents and other records (including electronic documents) containing information potentially relevant to the subject matter of this litigation.

**L. Leadership Structure**

Prior to the initial status conference, counsel for Plaintiffs and counsel for Defendants shall, to the extent they have not already done so, confer and seek consensus on recommendations for the leadership structure for this litigation. Recommendations should be submitted to the Court, together with each nominee's resume or curriculum vitae, educational background, licensing status, a short list of relevant experience with cases in similar areas, a brief overview of the resources the counsel has available to contribute to the litigation, and a certificate of good standing from the highest court from the individuals' jurisdiction. The Court is mindful of the benefits of diversity of all types in the leadership structure and values a diversity of experience, skills, and backgrounds, with the goal of establishing a diverse leadership team capable of working together efficiently to manage a highly complex proceeding. See, e.g., Duke Law Center for Judicial Studies, Standards and Best Practices for Large and Mass-Tort MDLs (Duke Law School Dec. 19, 2014). Gender and racial diversity, as well as other types of diversity, will be taken into account in attempting to

obtain the best possible representation for the parties. These recommendations should not be filed with the Clerk of Court, but instead should be submitted to the Court via email no later than fifteen days prior to the initial status conference. Counsel who intend to seek a leadership position must attend the initial conference.

**M. Communications with the Court**

Unless otherwise ordered, counsel must communicate with the Court in writing, with courtesy copies to all counsel. Communications with the Court and submissions which are not to be filed with the Clerk may be sent to [davis\\_chambers@mnd.uscourts.gov](mailto:davis_chambers@mnd.uscourts.gov).

**N. Scheduling and Discovery Plan**

At least one week before the initial status conference, the parties shall submit a brief outlining their view of (a) the primary facts, allegations, claims, and defenses involved in this litigation, together with any other pertinent legal and factual background; (b) an overview of the procedural status of all potential and actual MDL cases, including (1) the status of discovery to date, and (2) the status of motions, decisions, and other important events in the litigation, if any; (c) the status of any related state-court litigation; and (d) prediction of the number of cases that may become a part of this MDL and the number of related

cases that may remain in state courts. These briefs will not be binding, will not waive any claims or defenses, and may not be offered in evidence against a party in later proceedings. The parties shall be limited to one submission for Plaintiffs and one submission for Defendants.

At the initial status conference, the Court will hear suggestions on the content and timing for the initial case management order. The Court therefore invites submission of proposed draft case management orders, which must be submitted one week before the hearing. In addition to the normal deadlines and other issues in a pretrial scheduling order, see Fed. R. Civ. P. 16, any proposed draft case management order shall address the following: (a) electronic discovery; (b) whether establishment of a document repository is necessary, and agreement on a document production format that is search-capable; (c) stipulations regarding service of process; (d) coordination with state court litigation, if any; (e) whether a master complaint or complaints will or should be filed, and how to deal with class action litigation; and (f) trial dates.



The Court **DIRECTS** the Clerk to send a copy of this Order to the Clerk of the Judicial Panel on Multidistrict Litigation and counsel of record.

Dated: November 6, 2017

s/Michael J. Davis

Michael J. Davis

United States District Court